

ORIGINAL

JOHNSON UTILITIES L.L.C.

5230 East Shea Boulevard * Scottsdale, Arizona 85254
PH: (480) 998-3300; FAX: (480) 483-7908



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RECEIVED

2012 DEC 11 P 1:56

December 11, 2012

Steven Olea, Director
Utilities Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC 11 2012

DOCKETED BY *LM*

RE: Johnson Utilities Company, H2O, Diversified Water Utilities,
Queen Creek Water Company: Compliance with Decision No. 65840
Notice of Violation from ADEQ dated November 29, 2012 (Case #134234)
WS-02987A-99-0583; WS-02987A-00-0618; W-02234A-00-0371; W-02859A-00-0774;
W-01395A-00-0784

Dear Mr. Olea:

On December 4, 2012, Johnson Utilities, L.L.C. received a letter from the Arizona Department of Environmental Quality ("ADEQ") dated November, 2012, regarding the issuance of a Notice of Violation ("NOV") for the accusation of operation of a surface impoundment without an aquifer protection permit. A copy of the letter and the NOV are attached hereto as Attachment 1. Also attached hereto is a response to the NOV from Mr. Gregory Brown, Director of Engineering for Johnson Utilities, dated December 5, 2012 as Attachment 2. As indicated in our response, Johnson Utilities believes a violation never occurred. Also, please note that the response Mr. Brown incorrectly states that we received the NOV on November 4, 2012 instead of December 4, 2012. Pursuant to the decision we will continue to provide any correspondence between ADEQ until closure of the NOV has been reached.

Should you have any questions or concerns, please do not hesitate to contact me. Thank you for your time and consideration in this matter.

Sincerely,

Daniel Hodges
Johnson Utilities, LLC

cc: Docket Control
Brian Bozzo, Compliance Manager

Attachment 1



Janice K. Brewer
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov

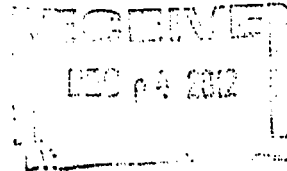


Henry R. Darwin
Director

CERTIFIED MAIL 7012 1010 0001 8068 8652
Return Receipt Requested
November 29, 2012

Case ID: 134234

Johnson Utilities, LLC
Attn: Ken Watkins
5230 E Shea Blvd.
Scottsdale, AZ 85254-5750



Re: Notice of Violation issued to Johnson Utilities

Dear Mr. Watkins:

This letter constitutes the monthly update on the status of Arizona Department of Environmental Quality ("ADEQ") action resulting from ADEQ's inspection of the above-referenced site on August 24, 2012, as required by A.R.S. § 41-1009(H).

The attached Notice of Violation ("NOV") is an informal compliance assurance tool used by ADEQ to put a responsible party (such as a facility owner or operator) on notice that the Department believes a violation of an environmental requirement has occurred. It describes the facts known to ADEQ at the time of issuance and cites the requirement that ADEQ believes the party has violated.

Although ADEQ has the authority to issue appealable administrative orders compelling compliance, an NOV has no such force or effect. Rather, an NOV provides the responsible party an opportunity to do any of the following before ADEQ takes formal enforcement action: (1) meet with ADEQ and discuss the facts surrounding the violation, (2) demonstrate to ADEQ that no violation has occurred, or (3) document that the violation has been corrected.

ADEQ reserves the right to take a formal enforcement action, such as issuing an administrative order or filing a civil lawsuit, regardless of whether the Department has issued an NOV. Neither ADEQ's issuance of an NOV nor its failure to do so precludes the Department from pursuing these remedies. However, the timeliness of a complete response to this notice will be considered by ADEQ in determining if and how to pursue such remedies.

Sincerely,

Daniel L. Czecholinski, Manager
Water Quality Utility Field Service Unit

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

Printed on recycled paper

cc: Donna Calderon, Manager, Drinking Water Monitoring and Protection Unit
WQCFSU Reading File ~~2-4~~ #4PS13-368
PWS File AZ0401128



Janice K. Brewer
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street Phoenix, Arizona 85007
(602) 771-2300 www.azdeq.gov



Henry R. Darwin
Director

CERTIFIED MAIL
Return Receipt Requested

Case ID #: 134234

November 29, 2012

Johnson Utilities, LLC
Attention: Ken Watkins
5230 E Shea Blvd
Scottsdale, AZ 85254-5750

Subject: Johnson Utilities, Place ID 18613
968 E Hunt Hwy / Queen Creek, AZ 85143-7450

NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ) has reason to believe that Johnson Utilities, LLC as the owner/operator of Johnson Utilities has violated a requirement of the Arizona Revised Statutes (A.R.S.), a rule within the Arizona Administrative Code (A.A.C.), or an applicable permit/license, administrative order or civil judgment. ADEQ discovered the violations alleged below during an inspection completed on August 24, 2012.

I. LEGAL AUTHORITY and NATURE OF ALLEGED VIOLATION(S)

1. A.R.S. § 49-241(B)(1)

Operation of a surface impoundment without an aquifer protection permit.

At the time of the inspection, ADEQ staff observed evidence of water backwashed from the sand filter at the Circle Cross Well (55-599026) in an unlined impoundment. Johnson Utilities does not have a Type 3 general permit to discharge the backwash water to this impoundment.

II. DOCUMENTING COMPLIANCE

1. Within 10 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or contact the Water Quality Utility Field Service Unit inspector to schedule a pre-application meeting to obtain an Aquifer Protection Permit from Groundwater Section.
2. Within 120 calendar days of receipt of this Notice, please submit documentation that the violation(s) never occurred, or an administratively complete Aquifer Protection Permit application

Southern Regional Office
400 West Congress Street Suite 433 Tucson, AZ 85701
(520) 628-6733

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III. SUBMITTING COMPLIANCE DOCUMENTATION

Please send all compliance documentation and any other written correspondence regarding this Notice to ADEQ at the following address:

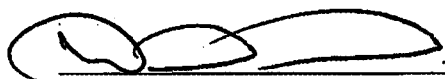
Arizona Department of Environmental Quality, Attention: Deborah L. Schadewald-Kohler, Water Quality Utility Field Service Unit, 1110 W Washington St, Phoenix, AZ 85007 MC: 5415B-1

IV. STATEMENT OF CONSEQUENCES

1. The time frames within this Notice for achieving and documenting compliance are firm limits. Failure to achieve or document compliance within the time frames established in this Notice will result in an administrative compliance order or civil action requiring compliance within a reasonable time frame, substantial civil penalties, and/or the suspension or revocation of an applicable permit/license. ADEQ will agree to extend the time frames only in a compliance schedule negotiated in the context of an administrative consent order or civil consent judgment.
2. Achieving compliance does not preclude ADEQ from seeking civil penalties, and/or suspending or revoking an applicable permit/license for the violation(s) alleged in this Notice as allowed by law.

V. OFFER TO MEET

ADEQ is willing to meet regarding this Notice. To obtain additional information about this Notice or to schedule a meeting to discuss this Notice, please contact Deborah L. Schadewald-Kohler at (602) 771-2225.



Daniel L. Czecholinski, Manager
Water Quality Utility Field Service Unit



Deborah L. Schadewald-Kohler
Water Quality Utility Field Service Unit

Attachment 2

JOHNSON UTILITIES, L.L.C.

**5230 East Shea Boulevard, Suite 200 * Scottsdale, Arizona 85254
PH: (480) 998-3300; FAX: (480) 483-7908**

December 5, 2012

**Deborah L. Schadewald-Kohler
Water Quality Utility Field Service Unit
MC: 5415B-1
Arizona Department of Environmental Quality
1110 W Washington St.
Phoenix, AZ 85007**

Re: Notice of Violation, Case ID #: 134234

Dear Ms. Schadewald-Kohler

Johnson Utilities, L.L.C. (JU) is responding to the Notice of Violation (NOV), Case ID: 134234 received by JU on November 4, 2012. The NOV alleges an operation of a surface impoundment without an aquifer protection permit for a sand filter at the Circle Cross well as observed by Arizona Department of Environmental Quality (ADEQ) staff during the August 24, 2012, inspection. This item was not addressed in the NOV Case ID # 133837 issued on October 9, 2012, following the August inspection or during our meeting on October 24, 2012.

Section III, Documenting Compliance, contains two action items that need to be responded to by JU. Items 1 and 2 require a response in 10-days and 120-days respectively. This response addresses Items 1.

NOV Item

- 1. Within 10 calendar days of receipt of this Notice, Please submit documentation that the violation(s) never occurred, or contact the Water Quality Utility Field Service Unit inspector to schedule a pre-application meeting to obtain an Aquifer Protection Permit from Groundwater Section.**

Response: This violation never occurred. In accordance with Arizona Revised Statutes §49-250(B)(23)(b) surface impoundments used to contain stormwater in combination with potable water sources, including waterline flushing, are exempt from the aquifer protection permit requirements. The Circle Cross well (ADWR # 55-599026) is a source

Deborah L. Schadewald-Kohler
December 5, 2012
Page 2 of 2

of potable water for our EPDES 004 Circle Cross water plant. This facility consists of a well, centrifugal sand separator, storage tank, and booster pumps. The sand separator is flushed periodically into the adjacent stormwater retention basin. This facility is not a water treatment facility that is required to have a Type 3 General Permit per Arizona Administrative Code R18-9-D302. There are no process water discharges such as filtration backwash or discharges from sedimentation and coagulation.

If you have any questions or comments, please contact me at (480) 998-3300.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. H. Brown', with a stylized flourish at the end.

Gregory H. Brown, P.E.
Director of Engineering